

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  Lynda T. Bui, Trustee 3550 Vine Street, Suite 210 Riverside CA 92507 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: Trustee.Bui@shbllp.com  Chapter 7 Trustee   <input checked="" type="checkbox"/> Individual appearing without attorney <input type="checkbox"/> Attorney for:	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION**

In re:  RAN TEA,       Debtor(s).	CASE NO.: 6:15-bk-16493-SY  CHAPTER: 7       <p style="text-align: center;"><b>NOTICE OF SALE OF ESTATE PROPERTY</b></p>
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<b>Sale Date:</b> Bids due by 12/14/2017 at 4:00 p.m. Final Bid Round/Court Hrg 12/17/2015 at 9:30 a.m.	<b>Time:</b>
<b>Location:</b> See Attached.	

**Type of Sale:**  Public  Private **Last date to file objections:** 12/03/2015

**Description of property to be sold:** Real Property located at 7071 Harne Ct., Rancho Cucamonga, CA 91739

**Terms and conditions of sale:** Sale pursuant to Bankruptcy Code § 363(b)(1); purchase price of \$840,000, subject to the Bidding Procedures described in the attachment hereto. SEE THE ATTACHMENT HERETO.

**Proposed sale price:** \$ 840,000.00

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

**Overbid procedure (if any):** Bids due by 12/4/2015 at 4:00 pm. to the attention of Lynda T. Bui, Trustee c/o  
the law offices of Shulman Hodges & Bastian LLP located at 100 Center Drive, Suite 600, Irvine, CA 92618.

Final bidding round to be held at the Court hearing on 12/17/2015 at 9:30 a.m. See attached for more information.

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

Not being sold free and clear of liens. Liens to be paid.

Court hearing to be held on 12/17/2015 at 9:30 a.m

U.S. Bankruptcy Court - Courtroom 302

3420 Twelfth Street

Riverside, CA 92501

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Lynda T. Bui, Chapter 7 Trustee

3550 Vine Street, Suite 210

Riverside, CA 92507

Telephone: (949) 340-3400

Facsimile: (949) 340-3000

Fax: (949) 340-3000

Email: Trustee.Bui@shblp.com

Date: 11/24/2015

1 **In re Ran Tea**  
2 **Case No. 6:15-bk-16493-SY**

3 **Attachment to Notice of Sale of Estate Property:**

4 **I. INTRODUCTION**

5 Lynda T. Bui, the Chapter 7 Trustee ("Trustee") for the bankruptcy estate  
6 ("Estate") of Ran Tea ("Debtor"), has filed a *Motion for Order: (1) Approving the Sale of*  
7 *Real Property of the Estate Pursuant to Bankruptcy Code § 363(b)(1), Subject to*  
8 *Overbids, Combined With Notice of Bidding Procedures and Request for Approval of*  
9 *the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission*  
10 *and Other Costs; and (3) Granting Related Relief* ("Sale Motion").

11 An asset of the Estate is the real property located at 7071 Harne Ct., Rancho  
12 Cucamonga, CA 91739 ("Property"). The Property is a single family residence. The  
13 Property has been on the market for three months. While there were showings and  
14 interests, the latest and best an offer came from Armando and Priscilla Solario  
15 (collectively "Buyer") to purchase the Property for \$840,000, subject to overbids and  
16 Court approval. The offer is contingent on (i) the Buyer's successful close of escrow on  
17 real property located at 5663 Galasso, Fontana, CA ("Fontana Property"), and (ii)  
18 escrow on the sale of the Estate's Property closing on or before January 15, 2015. The  
19 Buyer has presented the Trustee with evidence that the sale of the Fontana Property is  
20 in position to close and based on the evidence the Trustee is confident that the Buyer  
21 will be able to close on the sale of the Estate's Property.

22 **The Trustee is advised that Priscilla Solario is an attorney practicing in the**  
23 **Central District of California who has represented debtors in non-related**  
24 **bankruptcy cases the Trustee has administered.** The Trustee has no relationship  
25 with the Buyer other than as buyer/seller and there was no self-dealing associated with  
26 this sale.

27 After acceptance of the Buyer's offer, the Trustee's Broker received an inquiry  
28 from a second interested buyer. The Notice of the Sale Motion and the Bidding  
Procedures (set forth below) will be provided to all interested buyers.

1 After payment of (i) liens impacting the Property, (ii) outstanding real property  
2 taxes, (iii) all costs of sale including escrow fees and real estate commissions, (iv)  
3 reimbursement of expenses to the Trustee's Broker of \$2,572.18, and (iv) the Debtor's  
4 agreed homestead exemption of \$85,000,<sup>1</sup> the net sale proceeds for the Estate are  
5 estimated to be approximately \$56,000. In the event the purchase price is increased by  
6 a successful overbid, the estimated nets proceeds will increase.

7 The Court's Claims Register indicates there have been priority claims filed of  
8 approximately \$464.54 and general unsecured claims of approximately \$22,551.20.  
9 This amount may increase once the claims bar date passes on November 30, 2014  
10 (deadline for government claims is December 23, 2015). Thus, if the sale is approved,  
11 unsecured creditors are expected to receive a distribution.

12 Based on the benefits to the Estate, the Trustee believes that good cause exists  
13 to grant the Sale Motion so the Trustee does not lose this favorable business  
14 opportunity.

## 15 II. RELEVANT FACTS

### 16 A. Case Commencement

17 The Debtor commenced this bankruptcy case under Chapter 13 by filing a  
18 Voluntary Petition on June 26, 2015. The case was converted to a Chapter 7 on July  
19 20, 2015.

20 Lynda T. Bui is the duly appointed, qualified and acting Chapter 7 trustee for the  
21 Debtor's Estate.

### 22 B. The Property

23 The principal asset of the Estate is the Property. The Property is legally  
24 described as stated in the Preliminary Title Report dated November 9, 2015, a true and  
25 correct copy of which is attached as **Exhibit 1** to the Declaration of Lynda T. Bui  
26

27 <sup>1</sup> The Trustee has filed a *Motion to Approve Compromise Under Rule 9019 Between the*  
28 *Bankruptcy Estate and Debtor*, which is scheduled to be hearing concurrent with the  
Sale Motion. Under the proposed settlement, the Debtor has agreed to reduce her  
homestead exemption to \$85,000.

1 annexed to the Sale Motion (“Bui Declaration”). The Preliminary Title Report indicates  
2 that title vesting for the Property is in Debtor’s name, a married woman as her sole and  
3 separate property.

4 The Property is a single family residence. On her Schedules A and D, the Debtor  
5 listed the value of the Property at \$898,672 and listed liens totaling \$621,443. On her  
6 Amended Schedule C, the Debtor claimed an exemption in the Property of \$100,000  
7 pursuant to C.C.P.§704.730. Attached as **Exhibit 2** to the Bui Declaration annexed to  
8 the Sale Motion are true and correct copies of the Debtor’s Schedules A and C as  
9 amended and his Schedule D.

10 Concurrent with the filing of the Sale Motion, the Trustee has filed her *Motion to*  
11 *Approve Compromise Under Rule 9019 Between the Bankruptcy Estate and Debtor*  
12 (“Compromise Motion”). Under the Compromise Motion, the Trustee seeks approval of  
13 a Settlement Agreement with the Debtor that provides for, among other things, the  
14 Debtor’s claim of exemption in the Property to be reduced from \$100,000 to \$85,000 for  
15 the Property and a credit of \$15,000 for non-exempt equity in the vehicles. The hearing  
16 on the Compromise Motion is scheduled to be heard concurrent with the hearing on this  
17 Sale Motion.

18 **C. Employment of Real Estate Broker, Marketing Efforts and Basis for the**  
19 **Value of the Property**

20 On August 28, 2015, the Trustee filed an application to employ Matt Vanderbeek  
21 of Pro Realty Group as her real estate broker (“Broker”) (“Employment Application”)  
22 (docket 39) to assist her with effectively listing and marketing the Property for sale, as  
23 well as negotiating a sale price to prospective buyers to provide a benefit to the Estate.  
24 The listing agreement called for real estate commission to be paid of six percent of the  
25 sale price. The Employment Application was approved pursuant to Court order entered  
26 on October 2, 2015 (docket 45). Under the proposed sale herein, the Broker has  
27 agreed to a carve-out from the commission of two percent (\$16,800 based on the sale  
28 price of \$840,000).

1 The Estate does not have the funds to obtain a formal written appraisal for the  
2 estimated value of the Property. In her Schedule A the Debtor indicated a value of  
3 \$898,672 for the Property. The Broker listed the Property on the MLS in August 2015 in  
4 a price range of \$900,000 to \$925,000. It was also agreed that if no buyer was found or  
5 interest in the Property was not forthcoming, the Property listing price would be adjusted  
6 due to the condition of the Property. Specifically, the Property is in need of repairs over  
7 and above what has already been completed by the Trustee's Broker, and any buyer  
8 will likely need to spend additional cash for improvements after escrow closes. As there  
9 are other similar properties in the area that are in move in condition, the Estate's  
10 Property was not generating much interest from potential buyers. As such, in October,  
11 the listing price was reduced to \$899,900 and then again to \$849,000 in November  
12 2015.

13 The Property has been on the market for three months. The Trustee has  
14 received an offer from Armando and Priscilla Solario (collectively "Buyer") to purchase  
15 the Property for \$840,000, subject to overbids and Court approval. The offer is  
16 contingent on (i) the Buyer's successful close of escrow on real property located at 5663  
17 Galasso, Fontana, CA, and (ii) escrow on the sale of the Estate's Property closing on or  
18 before January 15, 2016.

19 After acceptance of the Buyer's offer, the Trustee's Broker received an inquiry  
20 from a second interested buyer. The Notice of the Sale Motion and the Bidding  
21 Procedures (set forth below) will be provided to all interested buyers.

22 The Trustee believes that the proposed sale, subject to overbids, will be at fair  
23 market value. Given that the sale is subject to overbids, it is anticipated that the Trustee  
24 will receive the best and highest value for the Property and therefore the proposed sale  
25 price of the Property is fair and reasonable. Moreover, with the secured payoff to  
26 lenders and any defaulted real property taxes increasing every month, the Trustee  
27 believes the Property must be sold as soon as possible in order to maximize the benefit  
28 for the Estate.

1 **D. Expenses Related to Repairs to the Property Incurred by the Trustee's**  
2 **Broker**

3 In addition to seeking approval for payment of real estate commission as  
4 described below, the Trustee seeks approval to use proceeds of the sale to reimburse  
5 my Broker for expenses of \$2,572.18 that he incurred to repair the Property to increase  
6 its appeal to potential buyers and so that it could be marketed for sale and a higher  
7 price. True and correct copies of the expense receipts that were paid by the Broker are  
8 attached as **Exhibit 3** to the Bui Declaration annexed to the Sale Motion. The detail of  
9 the necessary expenses is as follows:

<u>Expense</u>	<u>Amount</u>
Landscape/yard clean-up	\$550
Plumbing and repair of water damaged cabinet and drywall	\$1,050
Carpet cleaning	\$222
Window cleaning	\$300
Replacement of lightbulbs	\$50.18
Interior cleaning	\$400
Total	\$2,572.18

18  
19 **E. Liens and Encumbrances Against the Property and Their Proposed**  
20 **Treatment Through the Sale**

21 The following chart sets forth the liens and encumbrances against the Property  
22 as detailed in the Preliminary Title Report attached as **Exhibit 1** to the Bui Declaration  
23 annexed to the Sale Motion and the proposed treatment of the liens and encumbrances  
24 through the sale:

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<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owed</u>	<u>Treatment Through the Sale</u>
San Bernardino County Treasurer and Tax Collector	Real property taxes (estimated)	\$2,332	All outstanding real property taxes will be paid through escrow on the sale transaction.
Nationstar Mortgage LLC	Current beneficiary under a first priority deed of trust recorded June 26, 2003, recording number 2003-0466862.	\$362,000	This lien will be paid through escrow on the sale of the Property in accordance with any payoff demand by lender. Thus, this lien will be released, discharged and terminated at the close of escrow with the consent of lender and the lien will <b>not</b> attach to the sale proceeds.
JPmorgan Chase Bank, N.A.	Current beneficiary under a second priority deed of trust recorded July 5, 2005, recording number 2005-0477475	\$280,000	This lien will be paid through escrow on the sale of the Property in accordance with any payoff demand by lender. Thus, this lien will be released, discharged and terminated at the close of escrow with the consent of lender and the lien will <b>not</b> attach to the sale proceeds.
Capital One Bank USA N.A.	Judgment lien listed in the Debtor's Schedule D. <b>Not</b> listed on the Title Report.	\$4,920	This claim will <b>not</b> be paid through escrow as the Judgment was not recorded against Property being sold. There is no Judgment lien in favor of Capital One Bank USA N.A. listed on the Title Report. Therefore, there is no lien impacting the Property related to this claim that may be paid through the sale of the Property.

1 **F. The Purchase Offer and Summary of the Sale Terms**

2 Through her Broker, the Trustee received an offer from the Buyer to purchase  
3 the Property for \$840,000, which is the highest offer received from any potential buyer  
4 to date. Attached as **Exhibit 4** to the Bui Declaration annexed to the Sale Motion is a  
5 true and correct copy of the Residential Purchase Agreement and Joint Escrow  
6 Instructions and related addendum (collectively, the "Agreement").

7 A summary<sup>2</sup> of the terms and highlights of the Agreement between the Trustee  
8 and the Buyer are discussed below:

Buyer:	Armando Solaro and Priscilla Solaro 5663 Galasso Avenue Fontana, CA 92336  <b>The Trustee is advised that Priscilla Solaro is an attorney practicing in the Central District of California who has represented debtors in non-related bankruptcy cases the Trustee has administered.</b>
Purchase Price:	\$840,000, or an amount as increased by overbid.  The offer is contingent on (i) the Buyer's successful close of escrow on real property located at 5663 Galasso, Fontana, CA, and (ii) escrow closing on or before January 15, 2016.
Escrow Holder and Escrow Closing Date:	The escrow holder shall be A & A Escrow Services, Inc., 415 N. Crescent Drive, Suite 320, Beverly Hills, CA 90210.  Escrow is scheduled before January 15, 2016.
Costs of Sale and Payments Through Escrow (including Real Estate Agent Commission)	<ul style="list-style-type: none"> <li>• Outstanding real property taxes shall be paid in full.</li> <li>• The liens of Nationstar Mortgage LLC and JPMorgan Chase Bank, N.A. shall be paid in full.</li> <li>• Of the 6% commission, 2% will be allocated to the Trustee's Broker, 2% to the Buyer's real estate broker and a 2% carve-out for the Estate (or \$16,800).</li> <li>• Payment of closing costs and other monetary obligations the Agreement requires the Trustee on behalf of the Estate as the seller of the Property to pay at the close of escrow (including but not limited to escrow charges, title charges, documentary transfer taxes).</li> <li>• Reimbursement of expenses incurred by the Trustee's Broker in the total amount of \$2,572.18 that he incurred to repair the Property so that it could be marketed for sale.</li> <li>• Payment of the net sale proceeds to be paid to the Trustee on behalf of the Estate.</li> </ul>

28 <sup>2</sup> The summary and discussion are not meant to be a complete review of every provision of the Agreement.

1 2 Bankruptcy Court Approval	The sale is expressly conditioned on approval of the United States Bankruptcy Court for the Central District of California and entry of final order approving this Sale Motion.
3 4 5 6 7 8 9 Terms of Sale - Purchase Without Warranties	Buyer acknowledges that Buyer is purchasing the Property from the Seller "AS IS" without warranties of any kind, expressed or implied, being given by the Seller, concerning the condition of the property or the quality of the title thereto, or any other matters relating to the Property. Buyer represents and warrants that Buyer is purchasing the Property as a result of its own investigations and is not buying the Property pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction, or on the behalf of the Seller, except as expressly set forth in the Agreement. Buyer acknowledges that Buyer has inspected the Property, and upon closing of Escrow governed by this Agreement, Buyer forever waives, for itself, its heirs, successors and assigns, all claims against the Debtor, her attorneys, agents and employees, the Estate, Lynda T. Bui as Trustee and individually, and her attorneys, the law firm of which she is associated, Shulman Hodges & Bastian LLP, her agents and employees, arising or which might otherwise arise in the future concerning the Property
10 11 Terms of Sale – Payment of Liens	Out of an abundance of caution, any liens and interests against the Property that are not paid/resolved through escrow shall attach to the sale proceeds that may be generated through the sale with the same force, effect, validity, and priority as such liens or interests had with respect to the Property prior to the sale.
12 13 14 Terms of Sale - Good Faith Finding	The proposed sale has been brought in good faith and has been negotiated on an "arms length" basis. The negotiations with the Buyer have resulted in an offer to sell the Estate's interest in the Property that will have substantial benefit. Accordingly, the sale is in good faith and should be approved. The Trustee shall request such a finding pursuant to Bankruptcy Code Section 363(m) at the hearing on this Sale Motion.
15 16 17 Terms of Sale - Waiver of Rule 6004(h)	The Trustee requests that the Court waive the fourteen-day stay of the order approving the sale of the Property under Federal Rules of Bankruptcy Procedure 6004(h) such that the sale of the Property can close as soon as possible after entry of the Court order approving the Sale Motion and the Agreement.

18 **G. Notice of Bidding Procedures**

19 The Trustee has determined that it would benefit the Estate to permit all  
20 interested parties to receive information and bid for the Property instead of selling the  
21 Property to the Buyer on an exclusive basis. Accordingly, in order to obtain the highest  
22 and best offer for the benefit of the creditors of this Estate, the Trustee also seeks Court  
23 approval of the following bidding procedures ("Bidding Procedures"):

24 1. Potential overbidders must bid an initial amount of at least **\$5,000** over the  
25 Purchase Price, or **\$845,000**. Minimum bid increments thereafter shall be \$2,000. The  
26 Trustee shall have sole discretion in determining which overbid is the best for the Estate  
and will seek approval from the Court of the same.

27 2. Overbids must be in writing and be received by the Trustee. Lynda T. Bui,  
28 on or before **4:00 p.m. (California time) on the date which is three days prior to the hearing on the Sale Motion.**

1 3. Overbids must be accompanied by certified funds in an amount equal to  
2 three percent (3%) of the overbid purchase price.

3 4. The overbidder must also provide evidence of having sufficient specifically  
4 committed funds to complete the transaction or a lending commitment for the bid  
5 amount and such other documentation relevant to the bidder's ability to qualify as the  
6 purchaser of Property and ability to close the sale and immediately and unconditionally  
7 pay the winning bid purchase price at closing.

8 5. The overbidder must seek to acquire the Property on terms and conditions  
9 not less favorable to the Estate than the terms and conditions to which the Buyer has  
10 agreed to purchase the Property as set forth in the Agreement attached as **Exhibit 4** to  
11 the Bui Declaration annexed to the Sale Motion including closing on the sale of the  
12 Property in the same time parameters as the Buyer.

13 6. All competing bids must acknowledge that the Property is being sold on an  
14 "AS IS" basis without warranties of any kind, expressed or implied, being given by the  
15 Seller, concerning the condition of the Property or the quality of the title thereto, or any  
16 other matters relating to the Property. The competing bid buyer must represent and  
17 warrant that he/she is purchasing the Property as a result of their own investigations  
18 and are not buying the Property pursuant to any representation made by any broker,  
19 agent, accountant, attorney or employee acting at the direction, or on the behalf of the  
20 Seller. The competing bidder must acknowledge that he/she has inspected the  
21 Property, and upon closing of Escrow governed by the Agreement, the Buyer forever  
22 waives, for himself/herself, their heirs, successors and assigns, all claims against the  
23 Debtor, their attorneys, agents and employees, the Debtor's Estate, Lynda T. Bui as  
24 Trustee and individually, and her attorneys, the law firm for which she is associated,  
25 Shulman Hodges & Bastian LLP, her agents and employees, arising or which might  
26 otherwise arise in the future concerning the Property.

27 7. If overbids are received, the final bidding round for the Property shall be  
28 held at the hearing on the Sale Motion in order to allow all potential bidders the  
opportunity to overbid and purchase the Property. At the final bidding round, the  
Trustee or his counsel will, in the exercise of their business judgment and subject to  
Court approval, accept the bidder who has made the highest and best offer to purchase  
the Property, consistent with the Bidding Procedures ("Successful Bidder").

8. At the hearing on the Sale Motion, the Trustee will seek entry of an order,  
*inter alia*, authorizing and approving the sale of the Property to the Successful Bidder.  
The hearing on the Sale Motion may be adjourned or rescheduled without notice other  
than by an announcement of the adjourned date at the hearing on the Sale Motion.

9. In the event the Successful Bidder fails to close on the sale of the Property  
within the time parameters approved by the Court, the Trustee shall retain the  
Successful Bidder's Deposit and will be released from her obligation to sell the Property  
to the Successful Bidder and the Trustee may then sell the Property to the first back-up  
bidder approved by the Court at the hearing on the Sale Motion ("First Back-Up  
Bidder").

10. In the event First Back-Up Bidder fails to close on the sale of the Property  
within the time parameters approved by the Court, the Trustee shall retain the First  
Back-Up Bidder's Deposit and will be released from her obligation to sell the Property to  
the First Back-Up Bidder and the Trustee may then sell the Property to the second  
back-up bidder approved by the Court at the hearing on the Sale Motion ("Second Back-  
Up Bidder").

1 **H. Discussion Regarding Overbids**

2 The Trustee is proposing the sale of the Property to be subject to the Bidding  
3 Procedures. The Bidding Procedures will be provided to all creditors and any potential  
4 bidders or parties who have shown an interest in the Property.

5 In addition, a Notice of Sale of Estate Property will be filed with the Court for  
6 posting on the Court's website under the link "Current Notices of Sales", thereby giving  
7 notice to additional potential interested parties.

8 Based on the foregoing, the Trustee believes that under the circumstances of this  
9 case, the Property will have been appropriately marketed for overbidding.

10 **I. Costs of Sale**

11 Pursuant to the Employment Application approved by Court order (docket  
12 number 38), the Broker is entitled to a commission on the sale in the amount not to  
13 exceed 6% of the purchase price. Notwithstanding and to ensure that the Estate receive  
14 sufficient funds to make a meaningful distribution, the Broker has agreed to carve out  
15 2% to the Estate or \$16,800 after having to reduce the sale price.

16 Escrow fees shall be split between Buyer and Estate as the seller in the manner  
17 customary in San Bernardino County, California where the Property is located.

18 In addition, the Trustee seeks approval to use the sale proceeds to reimburse the  
19 Trustee's Broker for expenses of \$2,572.18 that he incurred to repair the Property to  
20 increase its appeal to potential buyers and so that it could be marketed for sale at a  
21 higher price.

22 **J. Tax Consequences**

23 There is no tax consequences as the Property is the Debtor's primary residence  
24 and she has resided there two of the last five year.

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**III. ARGUMENT<sup>3</sup>**

**A. There is a Good Business Reason for the Sale and the Sale is in the Best Interest of the Estate.**

The Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b). Courts ordinarily will approve a proposed sale if there is a good business reason for the sale and the sale is in the best interests of the estate. *In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983).

The facts regarding the Trustee's proposed sale of Property support the Trustee's business decision that the proposed sale is in the best interests of the Estate and its creditors. Through the sale, the Trustee expects to generate net proceeds of approximately \$59,087 or more if the purchase price is increased by successful overbid, as follows (amounts are estimated):

Sale Price (or amount as increased by overbid)	\$840,000
Less costs of sale (total of 8% including real estate commission)(there will be a carve-out from the commission to the be paid to the Estate of \$16,800	(\$67,200)
Less estimated real property taxes	(\$3,513)
Less estimated amounts due Nationstar Mortgage LLC (est.)	(\$362,000)
Less estimated amounts due JPMorgan Chase Bank, N.A. (est.)	(\$280,000)
Less Debtor's Homestead Exemption <sup>4</sup>	(\$85,000)
Less potential claim by Capital One (but the Trustee is challenging)	(\$4,920)
Less expenses related to the repairs to the Property (est.)	(\$2,572)
<b>Net Proceeds</b>	<b>\$34,795</b>

<sup>3</sup> Although Local Bankruptcy Rule 6004-1(c)(2)(C) does not require that a memorandum of points and authorities be filed in support of the Sale Motion, the Trustee is nevertheless submitting one.

<sup>4</sup> The Trustee reserves the right to increase this amount if there is an overbid at the sale hearing. However, there will not be an increase in the Debtor's homestead exemption if the net to the Estate will decrease.

1	Add in Carve-out from commission	\$16,800
2	Add in anticipated successful claim against Capital One	\$4,920
3	<b>Estimated Net to the Estate</b>	<b>\$56,515</b>

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5  
6 The estimated net proceeds will benefit the Estate by providing funds for  
7 distribution to creditors. The last day to file claims in this case is November 30, 2015  
8 (deadline for government claims is December 23, 2015). The Court's Claims Register  
9 indicates there have been priority claims filed of approximately \$464.54 and general  
10 unsecured claims of approximately \$22,551.20. This amount may increase once the  
11 claims bar date passes. Thus, if the sale of the Property is approved, unsecured  
12 creditors are expected to receive a distribution. If the Sale Motion is not approved, then  
13 there will be a substantial loss to the Estate. In such event, the Estate will not receive  
14 the benefits from the sale of the Property.

15 Furthermore, the Trustee believes that the proposed sale, subject to overbids,  
16 will be at fair market value because it is the best offer the Estate has received thus far  
17 for the Property. Given that the sale is subject to overbids, it is anticipated that the  
18 Trustee will receive the best and highest value for the Property and therefore the  
19 proposed sale price of the Property is fair and reasonable.

20 Therefore, the Trustee respectfully submits that, if this Court applies the good  
21 business reason standard suggested by the Second Circuit in *Lionel*, the sale should be  
22 approved.

23 **B. The Sale is Made in Good Faith**

24 A purchaser of property is protected from the effects of reversal on appeal of the  
25 authorization to sell or lease as long as the Court finds the purchaser acted in good faith  
26 and the appellant fails to obtain a stay of the sale. See, Bankruptcy Code Section  
27 363(m).

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1 Here, the proposed Buyer was procured solely as a result of traditional marketing  
2 efforts. The Trustee, through her Broker, further submits that negotiations with the  
3 Buyer were made in an arms-length fashion. **The Trustee is advised that Priscilla**  
4 **Solario is an attorney practicing in the Central District of California who has**  
5 **represented debtors in non-related bankruptcy cases the Trustee has**  
6 **administered.** The Trustee has no relationship with the Buyer other than as  
7 buyer/seller and there was no self-dealing associated with this sale. Accordingly, the  
8 Trustee requests that the Court make a finding that Buyer is a good-faith purchaser of  
9 the Property, within the meaning of Section 363(m).

10 **C. The Court as the Authority to Approve the Bidding Procedures**

11 Implementation of the Bidding Procedures is an action outside of the ordinary  
12 course of the business. Bankruptcy Code Section 363(b)(1) provides that a trustee  
13 “after notice and hearing, may use, sell or lease, other than in the ordinary course of  
14 business, property of the estate.” 11 U.S.C. § 363(b)(1). Furthermore, under  
15 Bankruptcy Code Section 105(a), “[t]he court may issue any order, process, or judgment  
16 that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. §  
17 105(a). Thus, pursuant to Bankruptcy Code sections 363(b)(1) and 105(a), this Court  
18 may approve the Bidding Procedures, which assist the Trustee to obtain the best  
19 possible price on the best possible terms for the Property.

20 **D. The Court has the Authority to Waive the Fourteen-Day Stay of Sale**

21 Federal Rule of Bankruptcy Procedure 6004(h) provides that “[a]n order  
22 authorizing the use, sale or lease of property other than cash collateral is stayed until  
23 the expiration of 14 days after entry of the order, unless the Court orders otherwise.”  
24 Fed. Rule Bankr. P. 6004(h). The Trustee desires to close the sale of the Property as  
25 soon as practicable after entry of an order approving the sale. Accordingly, the Trustee  
26 requests that the Court, in the discretion provided it under Federal Rule of Bankruptcy  
27 Procedure 6004(h), waive the fourteen-day stay requirement.

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**IV. CONCLUSION**

**WHEREFORE**, based upon the Sale Motion, the Trustee respectfully submits that good cause exists for granting the Sale Motion and requests that the Court enter an order as follows:

1. Approving the Bidding Procedures set forth above for the sale of the Property.

2. Authorizing the Trustee to sell the Property on an as-is, where-is basis, without any warranties or representations, to the Buyer (or Successful Bidder) for \$840,000, or an amount as increased by successful overbid, pursuant to the terms and conditions as set forth in the Agreement attached as **Exhibit 4** to the Bui Declaration annexed to the Sale Motion.

3. Authorizing the sale of the Property with liens not resolved or satisfied through the sale to attach to the net sale proceeds in the same validity and priority as prior to the closing of the sale.

4. Authorizing the payment of liens, costs of sale and other expenses directly from the sale proceeds at the close of escrow, including but not limited to:

- a. Payment of all outstanding real property taxes in full.
- b. Payment in full of the liens of Nationstar Mortgage LLC and JPMorgan Chase Bank, N.A.
- c. Payment of broker's commission as follows: the Trustee's Broker, Matt Vanderbeek of Pro Realty Group in the amount of \$16,800, the Buyer's real estate broker, Kristy Piazza of ReMax Masters in the amount of \$16,800 and the Trustee on behalf of the Estate for the carve-out in the amount of \$16,800.
- d. Payment of closing costs and other monetary obligations the Agreement requires the Trustee on behalf of the Estate as the seller of the Property to pay at the close of escrow (including but not limited to escrow charges, title charges, documentary transfer taxes).

1 e. Reimbursement of expenses incurred by the Trustee's Broker in the  
2 total amount of \$2,572.18 that he incurred to repair the Property so  
3 that it could be marketed for sale.

4 f. Payment of the net sale proceeds to be paid to the Trustee on behalf  
5 of the Estate.

6 5. Authorizing the Trustee to sign any and all documents convenient and  
7 necessary in pursuit of the sale of the Property pursuant to the terms of the Agreement  
8 governing the sale, including but not limited to any and all conveyances contemplated  
9 by the sale.

10 6. A determination by the Court that the Buyer is in good faith pursuant to  
11 Bankruptcy Code Section 363(m).

12 7. Waiving the fourteen day stay of the order approving the sale of the  
13 Property under Federal Rules of Bankruptcy Procedure 6004(h) such that the sale of  
14 the Property can close as soon as possible after entry of the Court order approving the  
15 Sale Motion.

16 8. For such other and further relief as the Court deems just and proper under  
17 the circumstances of this case.

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\* \* \* \* \*

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **100 Spectrum Center Drive, Suite 600, Irvine, California 92618**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **November 24, 2015** I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Lynda T. Bui (TR) Chapter 7 Trustee  
**trustee.bui@shbllp.com, C115@ecfbis.com**
- Theresa Hana on behalf of Debtor Ran Tea  
**t.hanalaw@yahoo.com**
- United States Trustee (RS)  
**ustpreion16.rs.ecf@usdoj.gov**
- Darlene C Vigil on behalf of Interested Party Courtesy NEF  
**cdcaecf@bdfgroup.com**
- Gilbert B Weisman, II on behalf of Creditor Kohl's  
**notices@becket-lee.com**
- Gilbert B Weisman, II on behalf of Creditor Toyota Motor Credit Corporation  
**notices@becket-lee.com**
- Gilbert B Weisman, II on behalf of Creditor eCAST Settlement Corporation  
**notices@becket-lee.com**
- Kristin A Zilberstein on behalf of Creditor JPMorgan Chase Bank, N.A., Successor In Interest By Purchase From The Federal Deposit Insurance Corporation As Receiver For Washington Mutual Bank, Its Assignees And/Or Successors  
**bknotice@mccarthyholthus.com, kzilberstein@mccarthyholthus.com, kzilberstein@ecf.inforuptcy.com**

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) **November 24, 2015**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **November 24, 2015**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**Judge's Copy - Via Messenger**

**Honorable Scott Yun, U.S. Bankruptcy Court, 3420 Twelfth St, Bin Outside Courtroom 302, Riverside, CA 92501**

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

**November 24, 2015**

*Date*

**Lorre Clapp**

*Printed Name*

**/s/ Lorre Clapp**

*Signature*

**U.S. MAIL SERVICE LIST**

**Buyer**

Armando and Priscilla Solario  
5663 Galasso Avenue  
Fontana, CA 92336

**Buyer's Broker**

Kristy Piazza  
ReMax Masters  
475 E Badilo St  
Covina, CA 91723-2214

**Trustee's Broker**

Matt Vanderbeek  
Pro Realty Group  
54 Endless Vista  
Aliso Viejo, CA 92656

**Potential Interested Buyer**

Nicholasu Ondatje, Agent  
Mainstreet Realtors  
8577 Haven Ave, Suite 110  
Rancho Cucamonga, CA 91730

**CONTINUED ON FOLLOWING PAGE**

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RANCHO CUCAMONGA, CA 91739-1689

**INTERESTED PARTY**

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RIVERSIDE, CA 92501-3255

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**CHASE BANK NA**  
MCCARTHY & HOLTHUS LLC  
1770 FOURTH AVENUE  
SAN DIEGO, CA 92101

**RFSN**

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DENVER, CO 80237-3485

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NATIONSTAR MORTGAGE LLC  
PO BOX 619096  
DALLAS TX 75261-9096

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NATIONSTAR MORTGAGE LLC  
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HOUSTON, TX 77067

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